2021 Regular Session

HOUSE BILL NO. 113

BY REPRESENTATIVE GADBERRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ETHICS/CODE: Allows the spouse of a public servant to be employed by a person who has or who is seeking a business or financial relationship with the agency of the public servant under specified circumstances

AN ACT

To enact R.S. 42:1111(C)(5), relative to the Code of Governmental Ethics; to allow the continued employment of the spouse of a public servant by a person with or seeking business or financial relationships with the agency of the public servant under specified circumstances; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 42:1111(C)(5) is hereby enacted to read as follows:

§1111. Payment from nonpublic sources

* * *

C. Payments for nonpublic service.

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<u>(5) Notwithstanding the provisions of Subparagraph (2)(d) of this Subsection, the spouse of a public servant may continue employment with a person who has or is seeking a contractual or other business or financial relationship with the public servant's agency provided all of the following conditions are met:</u>

<u>(a) The spouse is a salaried or wage-earning employee and has been continuously employed by the person for at least one year.</u>

<u>(b) The compensation of the spouse is substantially unaffected by a contractual or other business or financial relationship with the public servant's agency.</u>

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(c) Neither the public servant nor the spouse is an owner, officer, director, trustee, or partner in the legal entity which has or is seeking to have the relationship with the public servant's agency.

(d) The public servant recuses or disqualifies himself from participating in any transaction involving the spouse's employer in accordance with R.S. 42:1112 and related rules and regulations.

(e) Either prior to or within ten business days of the date the compensated employment would otherwise be prohibited, the spouse and the public servant jointly file with the Board of Ethics a written notice containing a brief description of the nature of the contractual, business, or financial relationship with the public servant's agency, the date the spouse was employed by the person, and any other information required by the board.

(f) The spouse complies with the disclosure requirements in R.S. 42:1114.

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Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 113 Engrossed 2021 Regular Session Gadberry

Abstract: Provides an exception to the ethics code to allow the spouse of a public servant to continue employment with a person who has or who is seeking a business or financial relationship with the agency of the public servant under specified conditions.

Present law (R.S. 42:1111(C)) prohibits a public employee from receiving compensation from certain sources, including those which have or are seeking a contractual or business or financial relationship with the public employee's agency, those which conduct operations or activities regulated by the public employee's agency, and those which have a substantial economic interest that could be substantially affected by the performance or nonperformance of the public employee's official duties.

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Proposed law provides an exception to allow a public servant's spouse to continue employment with a person who has or is seeking a contractual or other business or financial relationship with the public servant's agency provided: the spouse is a salaried or wage-earning employee and has been continuously employed for at least one year; the spouse's compensation is substantially unaffected by a contractual or other business or financial relationship with the public servant's agency; neither the public servant nor the spouse is an owner, officer, director, trustee, or partner in the legal entity which has or is seeking to have the relationship with the public servant's agency; the public servant recuses or disqualifies himself from participating in any transaction involving the spouse's employer in accordance with present law (R.S. 42:1112) and related rules and regulations; the spouse and the public servant jointly file a notice containing specified information with the Board of Ethics prior to or within 10 days of the the date the prohibition would otherwise occur; and the spouse complies with the disclosure requirements in present law (R.S. 42:1114).

Present law (R.S. 42:1111(E)) prohibits a public servant and any legal entity of which the public servant is an officer, director, trustee, partner, or employee, or in which the public employee has a substantial economic interest from receiving or agreeing to receive any thing of economic value for assisting a person in a transaction, or in an appearance in connection with a transaction, with the agency of the public employee. Present law (R.S. 42:1112) generally prohibits a public servant from participating in a transaction in which, to his actual knowledge, any of the following persons has a substantial economic interest: any member of his immediate family; any person in which he has a substantial economic interest of which he may reasonably be expected to know; any person of which he is an officer, director, trustee, partner, or employee; any person with whom he is negotiating or has an arrangement concerning prospective employment; and any person who is a party to an existing contract with such public servant, or with any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, or who owes any thing of economic value to such public servant, or to any legal entity in which the public servant exercises control or owns an interest in excess of 25 percent and who by reason thereof is in a position to affect directly the economic interests of such public servant. Present law further requires a public employee to disqualify himself from participating in a transaction involving the governmental entity in the manner prescribed by the Board of Ethics when a violation of the ethics code would result. Present law (R.S. 42:1114) generally requires financial disclosure statements to be filed by each public servant and each member of his immediate family who derives any thing of economic value, directly, through any transaction involving the agency of such public servant or who derives any thing of economic value of which he may be reasonably expected to know through a person which has bid on or entered into or is in any way financially interested in any contract, subcontract, or any transaction under the supervision or jurisdiction of the agency. Proposed law retains present law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 42:1111(C)(5))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill:

1. Require that the spouse must have been continuously employed by the person for a least one year.

2. Require the spouse and the public servant jointly file a written notice with the Board of Ethics.

3. Require the spouse to comply with specified disclosure requirements.

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